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In re Application of :
Wiser, et al. :
Application No. 09/289,513 :
Filed: April 9, 1999 :
Attorney Docket No. MSFT-1701/303314.01 :
For: SECURE ONLINE MUSIC :
DISTRIBUTION SYSTEM :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 27, 2006 (certificate of mailing date January 25, 2006), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision on Appeal within two months of the October 29, 2004 decision. The Office contended this application became abandoned on December 30, 2004. A Notice of Abandonment was mailed on February 28, 2005.

Petitioners argue that the application did not become abandoned because a RCE and amendment were filed on December 27, 2004, which was within the two month period for action. The correspondence is present in the application file.

The filing of a RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action, will result in the finality of the rejection or action being withdrawn and the submission being considered. Pursuant to 37 CFR 1.114, a RCE and amendment with new claims is a proper follow-up submission, if made within two months of the Board decision.

The petition under 37 CFR 1.181 is **GRANTED** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3626 for further examination.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

A handwritten signature in cursive script, reading "E. Shirene Willis", is written over a horizontal line.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy